

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 83, Page 2, in the title, by deleting the phrase "political subdivisions" and inserting in
3 lieu thereof the word "taxation"; and
4

5 Further amend said bill, Page 81, Section 184.865, Line 7, by inserting after all of said line the
6 following:

7 "253.545. As used in sections 253.545 to 253.559, the following terms mean, unless the
8 context requires otherwise:

9 (1) "Certified historic structure", a property located in Missouri and listed individually on the
10 National Register of Historic Places;

11 (2) "Deed in lieu of foreclosure or voluntary conveyance", a transfer of title from a borrower
12 to the lender to satisfy the mortgage debt and avoid foreclosure;

13 (3) "Eligible property", property located in Missouri and offered or used for residential or
14 business purposes;

15 (4) "Leasehold interest", a lease in an eligible property for a term of not less than thirty
16 years;

17 (5) "Principal", a managing partner, general partner, or president of a taxpayer;

18 (6) "Structure in a certified historic district", a structure located in Missouri which is
19 certified by the department of natural resources as contributing to the historic significance of a
20 certified historic district listed on the National Register of Historic Places, or a local district that has
21 been certified by the United States Department of the Interior;

22 (7) "Taxpayer", any person, firm, partnership, trust, estate, limited liability company, or
23 corporation;

24 (8) "Total costs and expenses of rehabilitation", all costs and expenses related to the
25 rehabilitation of eligible property that is a certified historic structure or a structure in a certified
26 historic district including, but not limited to, qualified rehabilitation expenditures as defined in
27 Section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and any related regulations
28 promulgated under such section. Such costs and expenses shall include, but not be limited to,
29 rehabilitation work in progress, accrued developer fees, and costs and expenses related to
30 rehabilitation incurred at the taxpayers own risk up to one year before the date of submission of a
31 preliminary application under section 253.559. Provided however, that accrued developer fees shall
32 only be considered "total costs and expenses of rehabilitation" if an agreement or other contractual
33 document provides for the payment of such fees within no more than six years of completion of the
34 rehabilitation.

35 253.550. 1. Any taxpayer incurring costs and expenses for the rehabilitation of eligible
36 property, which is a certified historic structure or structure in a certified historic district, [may] shall,
37 subject to the provisions of this section and section 253.559, receive a credit against the taxes

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1 imposed pursuant to chapters 143 and 148, except for sections 143.191 to 143.265, on such taxpayer
 2 in an amount equal to twenty-five percent of the total costs and expenses of rehabilitation incurred
 3 after January 1, 1998, which shall include, but not be limited to, qualified rehabilitation expenditures
 4 as defined under section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the
 5 related regulations thereunder, provided the rehabilitation costs associated with rehabilitation and the
 6 expenses exceed fifty percent of the total basis in the property and the rehabilitation meets standards
 7 consistent with the standards of the Secretary of the United States Department of the Interior for
 8 rehabilitation as determined by the state historic preservation officer of the Missouri department of
 9 natural resources. The department of economic development shall determine the total costs and
 10 expenses of rehabilitation pursuant to subsection 7 of section 253.559, but in no case shall such total
 11 costs and expenses of rehabilitation be defined more narrowly than qualified rehabilitation
 12 expenditures as defined in Section 47 (c) (2) (A) of the Internal Revenue Code of 1986, as amended,
 13 and any related regulations promulgated under such section, as required by section 253.545.

14 2. During the period beginning on January 1, 2010, but ending on or after June 30, 2010, the
 15 department of economic development shall not approve applications for tax credits under the
 16 provisions of subsections 3 and 8 of section 253.559 which, in the aggregate, exceed seventy million
 17 dollars, increased by any amount of tax credits for which approval shall be rescinded under the
 18 provisions of section 253.559. For each fiscal year beginning on or after July 1, 2010, but ending on
 19 or before June 30, 2014, the department of economic development shall not approve applications for
 20 tax credits under the provisions of subsections 3 and 8 of section 253.559 which, in the aggregate,
 21 exceed one hundred forty million dollars, increased by any amount of tax credits for which approval
 22 shall be rescinded under the provisions of section 253.559. The limitations provided under this
 23 subsection shall not apply to applications approved under the provisions of subsection 3 of section
 24 253.559 for projects to receive less than two hundred seventy-five thousand dollars in tax credits.

25 3. For all applications for tax credits approved on or after January 1, 2010, but before July 1,
 26 2014, no more than two hundred fifty thousand dollars in tax credits may be issued for eligible costs
 27 and expenses incurred in the rehabilitation of an eligible property which is a nonincome producing
 28 single-family, owner-occupied residential property and is either a certified historic structure or a
 29 structure in a certified historic district.

30 4. The limitations on tax credit authorization provided under the provisions of subsections 2
 31 and 3 of this section shall not apply to:

32 (1) Any application submitted by a taxpayer, which has received approval from the
 33 department prior to January 1, 2010; or

34 (2) Any taxpayer applying for tax credits, provided under this section, which, on or before
 35 January 1, 2010, has filed an application with the department evidencing that such taxpayer:

36 (a) Has incurred costs and expenses for an eligible property which exceed the lesser of five
 37 percent of the total project costs or one million dollars and received an approved Part I from the
 38 Secretary of the United States Department of Interior; or

39 (b) Has received certification, by the state historic preservation officer, that the rehabilitation
 40 plan meets the standards consistent with the standards of the Secretary of the United States
 41 Department of the Interior, and the rehabilitation costs and expenses associated with such
 42 rehabilitation shall exceed fifty percent of the total basis in the property.

43 5. For each fiscal year beginning on or after July 1, 2014, the department of economic
 44 development shall not approve applications for tax credits under the provisions of subsections 3 and
 45 8 of section 253.559 which, in the aggregate, exceed one hundred million dollars, increased by any
 46 amount of tax credits for which approval shall be rescinded under the provisions of section 253.559.
 47 The limitations provided under this subsection shall not apply to applications approved under the
 48 provisions of subsection 3 of section 253.559 for projects to receive less than two hundred

seventy-five thousand dollars in tax credits.

6. For all applications for tax credits approved on or after July 1, 2014, no more than one hundred twenty-five thousand dollars in tax credits may be issued for eligible costs and expenses incurred in the rehabilitation of an eligible property which is a nonincome producing single-family, owner-occupied residential property and is either a certified historic structure or a structure in a certified historic district.

7. In lieu of the limitations on tax credit authorization provided under the provisions of subsections 5 and 6 of this section, the limitations on tax credit authorization provided under the provisions of subsections 2 and 3 of this section shall apply to:

(1) Any application submitted by a taxpayer, which has received approval from the department prior to July 1, 2014; or

(2) Any application for tax credits provided under this section for a project, which on or before July 1, 2014:

(a) Received an approved Part I from the Secretary of the United States Department of Interior and has incurred costs and expenses for an eligible property which exceed the lesser of fifteen percent of the total project costs or three million dollars; or

(b) Has received certification, by the state historic preservation officer, that the rehabilitation plan meets the standards consistent with the standards of the Secretary of the United States Department of the Interior, and the rehabilitation costs and expenses associated with such rehabilitation would, upon completion, be expected to exceed fifty percent of the total basis in the property.

8. For each fiscal year beginning on or after July 1, 2014, the department of economic development shall not approve applications for projects to receive less than two hundred seventy-five thousand dollars in tax credits which, in the aggregate, exceed ten million dollars, increased by any amount of tax credits for which approval shall be rescinded under the provisions of section 253.559. The limitations on tax credit authorization provided under the provisions of this subsection shall not apply to:

(1) Any application submitted by a taxpayer, which has received approval from the department prior to the July 1, 2014; or

(2) Any application for tax credits provided under this section for a project, which on or before July 1, 2014:

(a) Received an approved Part I from the Secretary of the United States Department of Interior and has incurred costs and expenses for an eligible property which exceed five percent of the total project costs; or

(b) Has received certification, by the state historic preservation officer, that the rehabilitation plan meets the standards consistent with the standards of the Secretary of the United States Department of the Interior, and the rehabilitation costs and expenses associated with such rehabilitation would, upon completion, be expected to exceed fifty percent of the total basis in the property.

253.557. 1. If the amount of such credit exceeds the total tax liability for the year in which the rehabilitated property is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Not-for-profit entities, including but not limited to corporations organized as not-for-profit corporations pursuant to chapter 355 shall be ineligible for the tax credits authorized under sections 253.545 [through 253.561] to 253.559. Any taxpayer that receives state tax credits under the provisions of sections 135.350 to 135.363 for a project that is not financed through tax exempt bonds issuance shall be ineligible for

1 the state tax credits authorized under sections 253.545 to 253.559 for the same project. Taxpayers
 2 eligible for such tax credits may transfer, sell or assign the credits. Credits granted to a partnership, a
 3 limited liability company taxed as a partnership or multiple owners of property shall be passed
 4 through to the partners, members or owners respectively pro rata or pursuant to an executed
 5 agreement among the partners, members or owners documenting an alternate distribution method.

6 2. The assignee of the tax credits, hereinafter the assignee for purposes of this subsection,
 7 may use acquired credits to offset up to one hundred percent of the tax liabilities otherwise imposed
 8 pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265. The assignor shall
 9 perfect such transfer by notifying the department of economic development in writing within thirty
 10 calendar days following the effective date of the transfer and shall provide any information as may
 11 be required by the department of economic development to administer and carry out the provisions
 12 of this section.

13 253.559. 1. To obtain approval for tax credits allowed under sections 253.545 to 253.559, a
 14 taxpayer shall submit an application for tax credits to the department of economic development.
 15 Each application for approval, including any applications received for supplemental allocations of
 16 tax credits as provided under subsection 8 of this section, shall be prioritized for review and
 17 approval, in the order of the date on which the application was postmarked, with the oldest
 18 postmarked date receiving priority. Applications postmarked on the same day shall go through a
 19 lottery process to determine the order in which such applications shall be reviewed.

20 2. Each application shall be reviewed by the department of economic development for
 21 approval. In order to receive approval, an application, other than applications submitted under the
 22 provisions of subsection 8 of this section, shall include:

23 (1) Proof of ownership or site control. Proof of ownership shall include evidence that the
 24 taxpayer is the fee simple owner of the eligible property, such as a warranty deed or a closing
 25 statement. Proof of site control may be evidenced by a leasehold interest or an option to acquire
 26 such an interest. If the taxpayer is in the process of acquiring fee simple ownership, proof of site
 27 control shall include an executed sales contract or an executed option to purchase the eligible
 28 property;

29 (2) Floor plans of the existing structure, architectural plans, and, where applicable, plans of
 30 the proposed alterations to the structure, as well as proposed additions;

31 (3) The estimated cost of rehabilitation, the anticipated total costs of the project, the actual
 32 basis of the property, as shown by proof of actual acquisition costs, the anticipated total labor costs,
 33 the estimated project start date, and the estimated project completion date;

34 (4) Proof that the property is an eligible property and a certified historic structure or a
 35 structure in a certified historic district, or evidence that the taxpayer has submitted the necessary
 36 documentation to qualify the property as an eligible property and a certified historic structure or as a
 37 structure in a certified historic district. A final determination of such qualifications shall not be a
 38 prerequisite for approval of the application or the incurrence of eligible costs; and

39 (5) Any other information which the department of economic development may reasonably
 40 require to review the project for approval. Only the property for which a property address is
 41 provided in the application shall be reviewed for approval. Once selected for review, a taxpayer
 42 shall not be permitted to request the review of another property for approval in the place of the
 43 property contained in such application. Any disapproved application shall be removed from the
 44 review process. If an application is removed from the review process, the department of economic
 45 development shall notify the taxpayer in writing of the decision to remove such application.
 46 Disapproved applications shall lose priority in the review process. A disapproved application, which
 47 is removed from the review process, may be resubmitted, but shall be deemed to be a new
 48 submission for purposes of the priority procedures described in this section.

1 3. If the department of economic development deems the application sufficient, the taxpayer
2 shall be notified in writing of the approval for an amount of tax credits equal to the amount provided
3 under section 253.550 less any amount of tax credits previously approved. Such approvals shall be
4 granted to applications in the order of priority established under this section and shall require full
5 compliance thereafter with all other requirements of law as a condition to any claim for such credits.
6 Notwithstanding any provision of law to the contrary, a determination of the department of economic
7 development, in consultation with the department of natural resources, whether the completed
8 rehabilitation meets the standards of the Secretary of the United States Department of the Interior for
9 rehabilitation as determined by the state historic preservation officer of the department of natural
10 resources under subsection 7 of this section, shall not be required for the department of economic
11 development to approve an application under this subsection.

12 4. Following approval of an application, the identity of the taxpayer contained in such
13 application shall not be modified except:

14 (1) The taxpayer may add partners, members, or shareholders as part of the ownership
15 structure, so long as the principal remains the same, provided however, that subsequent to the
16 commencement of renovation and the expenditure of at least ten percent of the proposed
17 rehabilitation budget, removal of the principal for failure to perform duties and the appointment of a
18 new principal thereafter shall not constitute a change of the principal; or

19 (2) Where the ownership of the project is changed due to a foreclosure, deed in lieu of a
20 foreclosure or voluntary conveyance, or a transfer in bankruptcy. Upon any such change in
21 ownership, the taxpayer contained in such application, or any successor owner of the project, shall
22 notify the department of such change.

23 5. In the event that the department of economic development grants approval for tax credits
24 equal to the applicable total amount available under subsection 2 or 5 of section 253.550, or
25 sufficient that when totaled with all other approvals, the applicable amount available under
26 subsection 2 or 5 of section 253.550 is exhausted, all taxpayers with applications then awaiting
27 approval or thereafter submitted for approval shall be notified by the department of economic
28 development that no additional approvals shall be granted during the fiscal year and shall be notified
29 of the priority given to such taxpayer's application then awaiting approval. Such applications shall
30 be kept on file by the department of economic development and shall be considered for approval for
31 tax credits in the order established in this section in the event that additional credits become available
32 due to the rescission of approvals or when a new fiscal year's allocation of credits becomes available
33 for approval.

34 6. All taxpayers with applications receiving approval on or after the effective date of this act
35 shall commence rehabilitation within two years of the date of issuance of the letter from the
36 department of economic development granting the approval for tax credits. "Commencement of
37 rehabilitation" shall mean that as of the date in which actual physical work, contemplated by the
38 architectural plans submitted with the application, has begun, the taxpayer has incurred no less than
39 ten percent of the estimated costs of rehabilitation provided in the application. Taxpayers with
40 approval of a project shall submit evidence of compliance with the provisions of this subsection. If
41 the department of economic development determines that a taxpayer has failed to comply with the
42 requirements provided under this section, the approval for the amount of tax credits for such
43 taxpayer shall be rescinded and such amount of tax credits shall then be included in the applicable
44 total amount of tax credits, provided under subsection 2 or 5 of section 253.550, from which
45 approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be
46 notified of such from the department of economic development and, upon receipt of such notice,
47 may submit a new application for the project.

48 7. To claim the credit authorized under sections 253.550 to 253.559, a taxpayer with

approval shall apply for final approval and issuance of tax credits from the department of economic development [which,] . Such application for final approval and issuance of tax credits shall include a cost and expense certification, prepared by a licensed certified public accountant that is not an affiliate of the applicant, certifying the total costs and expenses of rehabilitation and the total amount of tax credits for which such taxpayer is eligible under sections 253.550 to 253.559. Cost and expense certifications required under this section shall separately state any accrued developer fees. No later than forty-five calendar days following receipt of a taxpayer's application for final approval and issuance of tax credits, the department of economic development shall determine, in consultation with the department of natural resources, [shall determine the final amount of eligible rehabilitation costs and expenses and] whether the completed rehabilitation meets the standards of the Secretary of the United States Department of the Interior for rehabilitation [as determined by the state historic preservation officer of the Missouri department of natural resources]. If the completed rehabilitation meets such standards, the department of economic development shall, within forty-five calendar days following the receipt of the taxpayer's application for final approval and tax credit issuance, inform such taxpayer of its initial determination by letter and issue such taxpayer an initial tax credit issuance. A taxpayer receiving an initial tax credit issuance shall receive tax credit certificates in an amount equal to the lesser of seventy-five percent of the total amount of tax credits for which the taxpayer is eligible under sections 253.550 to 253.559, as certified in the cost and expense certification, or the amount of tax credits approved for such project under subsection 3 of this section. Within one hundred and twenty calendar days following receipt of a taxpayer's application for final approval and tax credit issuance, the department shall determine the final amount of eligible rehabilitation costs and expenses. For a taxpayer receiving an initial tax credit issuance, no later than one hundred and twenty calendar days following receipt of such taxpayer's application for final aproval and tax credit issuance, the department shall notify such taxpayer of its final determination by letter and issue such taxpayer tax credit certificates in an amount equal to the lesser of the remaining amount of tax credits for which such taxpayer is eligible to receive under sections 253.550 to 253.559, as determined by the department, or the remaining amount of tax credits for which such taxpayer was approved under subsection 3 of this section, but not issued under the initial tax credit issuance. If the department of economic development determines that the amount of tax credits issued to a taxpayer in the initial tax credit issuance is in excess of the total amount of tax credits such taxpayer is eligible to receive under sections 253.550 to 253.559, the department shall notify such taxpayer and such taxpayer shall repay the state an amount equal to such excess. For financial institutions credits authorized pursuant to sections 253.550 to [253.561] 253.559 shall be deemed to be economic development credits for purposes of section 148.064. The approval of all applications and the issuing of certificates of eligible credits to taxpayers shall be performed by the department of economic development. [The department of economic development shall inform a taxpayer of final approval by letter and shall issue, to the taxpayer, tax credit certificates.] The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. Taxpayers which receive tax credit certificates under sections 253.550 to 253.559, attributable to accrued developer fees shall, within six years of completion of rehabilitation, submit an additional cost and expense certification verifying the total amount of developer fees actually accrued and paid. To the extent the amount of developer fees contained in a taxpayer's cost and expense certification included with such taxpayers application for final approval and tax credit issuance exceeds the amount of developer fees actually accrued and paid, as evidenced by the additional cost and expense certification, such taxpayer shall repay to the state an amount equal to twenty-five percent of such excess.

8. Except as expressly provided in this subsection, tax credit certificates shall be issued in the final year that costs and expenses of rehabilitation of the project are incurred, or within the twelve-month period immediately following the conclusion of such rehabilitation. In the event the

1 amount of eligible rehabilitation costs and expenses incurred by a taxpayer would result in the
 2 issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval
 3 granted under subsection 3 of this section, such taxpayer may apply to the department for issuance of
 4 tax credits in an amount equal to such excess. Applications for issuance of tax credits in excess of
 5 the amount provided under a taxpayer's application shall be made on a form prescribed by the
 6 department and shall be substantially in the form of the department of economic development form
 7 titled "Historic Preservation Tax Credit Program - Request for Additional Credits" in effect by the
 8 effective date of this act. Such applications shall be subject to all provisions regarding priority
 9 provided under subsection 1 of this section.

10 9. The department of economic development shall determine, on an annual basis, the overall
 11 economic impact to the state from the rehabilitation of eligible property.

12 10. (1) Taxpayers or duly authorized representatives may appeal any official decision,
 13 including all preliminary or final approvals and denials of approvals, made by the department or the
 14 department of natural resources with regard to an application submitted under sections 253.550 to
 15 253.559 to an independent third-party appeals officer designated by the department within fourteen
 16 days of receipt of the appeal by the department. Such appeals under this section shall constitute an
 17 administrative review of the decision appealed from and shall not be conducted as an adjudicative
 18 proceeding.

19 (2) Appeals shall be submitted to the designated appeals officer in writing within thirty days
 20 of receipt by the taxpayer or the taxpayer's duly authorized representative of the decision that is the
 21 subject of the appeal, and shall include all information the appellant wishes the appeals officer to
 22 consider in deciding the appeal.

23 (3) Within fourteen days of receipt of an appeal, the appeals officer shall notify the
 24 department or the department of natural resources that an appeal is pending, identify the decision
 25 being appealed, and forward a copy of the information submitted by the appellant. The department
 26 or the department of natural resources may submit a written response to the appeal within thirty
 27 days.

28 (4) The appellant shall be entitled to one meeting with the appeals officer to discuss the
 29 appeal, but the appeals officer may schedule additional meetings at the officer's discretion. The
 30 department or the department of natural resources may appear at all meetings.

31 (5) The appeals officer shall consider the record of the decision in question, any further
 32 written submissions by the appellant and the department or the department of natural resources, and
 33 other available information, and shall deliver a written decision to all parties as promptly as
 34 circumstances permit, but not later than ninety days after the initial receipt of an appeal by the
 35 appeals officer.

36 11. By no later than January 1, 2014, the department shall propose rules to implement the
 37 provisions of sections 253.550 to 253.559. Prior to proposing such rules, the department shall
 38 conduct a stakeholder process designed to solicit input from interested parties. Any rule or portion
 39 of a rule, as that term is defined in section 536.010, that is created under the authority delegated
 40 herein shall become effective only if it complies with and is subject to all of the provisions of chapter
 41 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of
 42 the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
 43 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
 44 rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid and
 45 void."; and

46
 47 Further amend said bill by amending the title, enacting clause, and intersectional references
 48 accordingly.